

RE: LAND AT BIRD IN EYE FARM SOUTH, UCKFIELD, SUSSEX

**OPENING SUBMISSIONS ON BEHALF OF THE
APPELLANTS**

1. The proposal which is before the Inquiry in relation to the Bird In Eye South site is that some 9.6 hectares of land should be developed for housing together with associated open space and ancillary facilities at a density of 32 dwellings per hectare. The application for the development was submitted together with a number of accompanying reports and assessments on 21 December 2006. It was refused by Wealden District Council on 6 July 2007 for five reasons.

2. The five reasons were, in essence, as follows. Firstly, the proposal is outside the currently planned development limits for Uckfield. Secondly, concern was expressed in relation to the impact on both rural roads and the town centre as a result of traffic generated. Thirdly, it was contended that there was insufficient information on landscape and management and habitat enhancement accompanying the proposals. Fourthly, it was alleged that there was an insufficient demonstration of sustainable transport associated with the development. Finally, it was suggested that there was no mechanism provided for the provision of affordable housing.

3. It is essential in opening the case on behalf of the Appellants to explain the history of the site, including in particular its treatment during the preparation of what was intended to be the replacement Local Plan. In the First Deposit Draft of the proposed replacement Local Plan this site, together with the land which has the benefit of a resolution to grant planning permission north of Mallard Drive and the land at Bird In Eye North, for the development of 500 houses together with associated facilities. That proposal recognised the acceptability in principle of housing on the site, and was promoted by the Council through public consultation procedures associated with that First Deposit Draft.
4. It is important to appreciate that it was not at the officer's instigation that this land was de-allocated. It appears that on 26 February 2004 officers, having considered the representations made in relation to the First Deposit Draft of the Local Plan, recommended to members not that the site be deleted but rather that further time be given in order to secure agreement between the Council, the developers and the highway authority in respect of, in particular, a scheme to provide free flow of traffic on the Framfield Road and resolve parking issues currently associated with that highway. Unfortunately, members did not afford time for that to occur but proposed to delete both the Bird In Eye South and Bird In Eye North parts of the allocation, leaving the land west of Framfield Stream and north of Mallard Drive to be retained within the plan as it proceeded through its statutory processes.

5. As is well documented within the evidence, in fact those statutory procedures were never completed. The Council abandoned the Local Plan in favour of pursuing the LDF and, following litigation in the High Court and Court of Appeal, adopted the plan at the point which it had reached in the statutory procedures, still shy of any independent public scrutiny, for development control purposes. The weight that can therefore be attached to that document is very limited, given the absence of any scrutiny of it in any independent public forum. In any event, within that document other sites were identified, and both the overall quantum of housing allocated to Uckfield together with the de-allocation of the site and the suitability of the alternatives put forward have never been explored through a public inquiry process prior to the current exercise.

6. Against that background and in the light of the Appellant's contentions in respect of a clear housing need within Wealden district, the application for development of this site was made.

7. It is clear from national government advice that any assessment of housing need should be undertaken in the context of the provisions of the relevant Development Plan. Here, the Development Plan comprises the Local Plan (which is out of date and prepared against a long-deceased housing target), the RSS and the Structure Plan prepared against the backdrop of that RSS. It is clear from the views which are distilled in the Appellant's joint agreed statement that, measured against the requirements of the Structure Plan, there is no demonstrated five-

year supply of housing land within the district. Thus, there is a clear requirement for further allocations of land to be made. Indeed, the extent of the requirement is such that it could support the release of all three of the sites which are before this Public Inquiry.

8. The Council seek to contend that an assessment should be made against the emerging figures from the RSS. Those figures are not part of the Development Plan, and the conclusions of the panel following the examination-in-public are currently before the Secretary of State for her to form her own conclusions on the nature and extent of housing supply which is required. In any event, even against those figures, the District is unable to demonstrate a five-year land supply. Thus, the position does not improve in the Council's favour, if they take those subsequent figures.

9. In reality, the principal way in which the Council seek to avoid the conclusion that there is a housing requirement measured against the emerging RSS is to decline to meet the shortfall that their failure to plan has generated in recent years. That is a flawed approach for a number of reasons. It is simply not tenable to ignore or overlook the failure of the planning system to meet needs in the immediate past. Moreover, it is an approach inconsistent with the Council's own corporate priorities, which clearly need to address the acknowledged and pressing shortfall of provision in respect of affordable housing within the District. Eloquent testimony of the concerns in this respect is to be found in the cabinet report of 1 August 2007, which recognises the critical need for

delivery of affordable housing within the District and the general lack of a "delivery culture" in addressing these housing requirements. Thus, on any view, there is a pressing need for further sites for development to be released in order to meet both general and, in particular, affordable housing requirements.

10. Against that backdrop, it is necessary to consider the merits of this site, in particular measured against the reasons for refusal which were set out above.

11. So far as the reliance on the development limits to Uckfield are concerned, it is important to appreciate that those limits in the Development Plan, and in particular the Local Plan, were fixed against earlier development requirements which have clearly been superseded. There was a need to re-plan the development limits which was not completed by the non-statutory Local Plan, and for the reasons set out above little weight can be attached to that document in setting development limits. As has already been explained and as is set out in the evidence, there is a need for further housing sites to be identified. This site is on the edge of Uckfield, which is acknowledged to be a sustainable settlement with a good stock of services and facilities. It is a settlement which, consistent with both current and emerging policies, is capable of accommodating growth and providing for sustainable development.

12. So far as this site is concerned, in addition to the Appellant's own careful and extensive examination of landscape impact, which demonstrates that the impact on the landscape as a result of the proposals would be acceptable, that is a conclusion which was also shared in the officer's report to committee in respect of landscape and visual impact resulting from the proposed development. Detailed urban design evidence is offered to the inquiry to show that the site can be developed as a high quality urban environment.
13. The second reason for refusal relates to highways impact. The evidence contained both within the Transportation Assessment and before the Inquiry demonstrates that there will not be any material impact upon rural roads, in particular in the vicinity of Framfield.
14. Extensive work has been undertaken in order to assess the impact of the proposals upon the town centre and the existing issues of congestion which are experienced within it. The analysis which has been undertaken on behalf of the highway authority by JMP shows that schemes exist which are capable of accommodating not simply the traffic flows of existing and permitted development but also both Bird In Eye South and Bird In Eye North sites. Akin to the sites within the non-statutory Local Plan which have been allowed to proceed and recommended for approval, the proposal in relation to the Bird In Eye South site is that it should make a proportionate and pro rata contribution to the town centre improvements which are anticipated by the highway authority. Thus, the evidence demonstrates both the

willingness of the Appellant to contribute an appropriate amount and also the existence of solutions which will facilitate the provision of infrastructure and other measures to enable the generated traffic to be absorbed.

15. Turning to the impact on Framfield Road, which was one of the factors which apparently led to the deletion of the site from the then emerging Local Plan, ironically after the site was deleted proposals have been agreed with the highway authority which are illustrated in the evidence to provide a scheme of regulated on-street parking to facilitate the free two-way flow of traffic within Framfield Road, as well as accommodate existing residents' parking. Thus, on the basis of the material before the Inquiry, the second reason for refusal has on any view been resolved.

16. It is unclear as to the provenance of the third reason for refusal, since in its detail it refers to an Environmental Statement, although this site has never been regarded as requiring an Environmental Statement. Be that as it may, extensive information in relation to the nature conservation interest of the site has been presented both to the local authority and to this Inquiry. As a result of that, an agreed position has been reached whereby it is accepted that the site is suitable in principle for development, and that the mitigation measures which are proposed are appropriate, in particular in relation to peripheral areas of ancient woodland, where substantial buffer zones are proposed in order to preserve the integrity of that nature conservation feature. Thus, without the need to enquire into the origin of this reason for refusal, it

is sufficient to record that these issues have been resolved for the purposes of reporting to the Secretary of State.

17. The fourth reason for refusal related to sustainable transport. It is important to appreciate that the site is well located both in relation to the town centre and in respect of other educational and leisure services and facilities so as to encourage the use of slow modes of transport to access them. Further infrastructure is proposed to ensure that safe walking and cycling to and from the site will be available to residents, and a package of measures is proposed in order to facilitate that objective. In addition, the developers are committed to providing a residential green travel plan to seek to bear down on the number of vehicular trips which are generated from the site. Suggestions have been made by the consultants acting on behalf of the highway authority, and those have been taken into account in formulating the provisions of an appropriate and effective green travel plan.
18. The last reason for refusal relates to the absence of a mechanism to deliver affordable housing. It is important to appreciate that the Appellants have always proposed a level of affordable housing consistent with the requirements of the Council coupled with provision of smaller dwellings to meet the Council's concerns in relation to the mix of the development proposed. The 30% of the dwellings which will be affordable will comprise 25% subsidised housing for rent together with 5% shared ownership or discount market housing. Approximately

20% of the dwellings provided will be in the small dwellings category, as defined by the Council.

19. Thus, the only way of making sense of this reason for refusal is to construe it as meaning that at the time when the Council refused the application there was no Section 106 obligation before it. That measure would of course have followed a recommendation supporting the grant of consent, and such an obligation is currently being formulated along with the Council so as to secure the provision of this and other elements of social and physical infrastructure which it is accepted should be provided as part of the development. This includes, for instance, contributions towards education.
20. To conclude, There is an absence within the district of a five-year land supply measured against the appropriate parameter, namely the Development Plan. Even against emerging requirements there is a continuing need to identify further sites for housing measured against the five-year requirement. In any event, in the current climate, which seeks to identify appropriate sites to grant planning permission rather artificially rationing the release of sites which are suitable for residential development, this site is in a sustainable location on the edge of a settlement which is properly identified as being capable of accommodating significant housing growth.
21. On analysis, more than adequate information is now available to justify the conclusion that there are no infrastructure or amenity objections

to the proposals. Where necessary, the Appellants have demonstrated their willingness to make appropriate contributions towards any infrastructure or other requirements. Thus, the Secretary of State can be reliably advised that this is a site which should be released to meet both the housing and, in particular, the affordable housing needs of the district.

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